

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF NEW YORK**

**DALILA YEEND, BOUNNAM  
PHIMASONE, ELVIN MINAYA  
RODRIGUEZ, LISA LAPOINTE, AND  
SHANTADEWIE RAHMEE,**

**Plaintiffs,**

**v.**

**AKIMA GLOBAL SERVICES, LLC,  
a/k/a AGS,  
Defendant.**

**CASE NO.: 1:20-CV-01281-TCM-CFH**

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**NOTICE OF DEFENDANT’S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P.  
19(b) AND MOTION FOR SUMMARY JUDGMENT PURSUANT TO FED. R. CIV. P. 56**

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**NOW COMES**, Defendant, Akima Global Services, LLC (“AGS” or “Defendant”), through undersigned counsel, who hereby respectfully moves this Court to dismiss this action with prejudice in its entirety pursuant to Rules 19 and 56 of the Federal Rules of Civil Procedure.

For the reasons set forth in AGS’s accompanying Memorandum of Law, this matter should be dismissed under Rule 19(b) because The United States Department of Homeland Security, Immigration and Customs Enforcement (“ICE”) is an indispensable party who cannot be joined in this action. The inability to join ICE in this matter leaves AGS subject to a substantial risk of incurring inconsistent obligations under its contract with the federal government which cannot otherwise be remedied. Therefore, dismissal is warranted under Rule 19(b).

Further, all of Plaintiff’s claims arise from actions required of AGS by the federal government and overseen by the federal government at a government-owned and operated detention facility. Therefore, the matter should be summarily dismissed under Rule 56 because AGS is

immune from Plaintiffs' claims under the federal contractor defense.<sup>1</sup> In accordance with Local Rules 7.1(b)(3) and 56.1(a) a Statement of Material Facts is enclosed with this Motion.

Respectfully submitted on February 8, 2024.

**COUNSEL FOR DEFENDANT,  
AKIMA GLOBAL SERICES LLC**

/s/ Jessica L. Marrero

Jessica L. Marrero

Amiel J. Provosty (*pro hac vice*)

**THE KULLMAN FIRM**

*A Professional Law Corporation*

1100 Poydras Street, Suite 1600

New Orleans, Louisiana 70163-1600

T: 504-524-4162 | F: 504-596-4114

[JLM@KullmanLaw.com](mailto:JLM@KullmanLaw.com)

[AJP@KullmanLaw.com](mailto:AJP@KullmanLaw.com)

Heather F. Crow (*pro hac vice*)

**THE KULLMAN FIRM**

*A Professional Law Corporation*

2915 Kerry Forest Parkway - Suite 101

Tallahassee, FL 32309

T: 850-296-1953 | F: 504-596-4189

[HFC@kullmanlaw.com](mailto:HFC@kullmanlaw.com)

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<sup>1</sup> In the interest of judicial economy, AGS submits that these critical threshold issues should be addressed before the Court is required to examine the merits of Plaintiffs' claims. By filing this Motion, AGS does not waive any other defenses or arguments challenging the merits of Plaintiffs' claims, and AGS reserves its right to file a subsequent Rule 56 motion for that purpose.

**CERTIFICATE OF SERVICE**

I hereby certify that on February 8, 2024, I electronically filed Defendant's Motion to Dismiss and Motion for Summary Judgment, its supporting Memorandum of Law, Statement of Material Facts, and exhibits with the Clerk of the U.S. District Court for the Northern District of New York via the CM/ECF system, which sent notification to all parties of record.

/s/ Jessica L. Marrero

***Counsel for Defendant***